

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

JOHN COOK,)	
)	
Plaintiff,)	
)	
v.)	Case Number CIV-05-289-C
)	
MEDICAL SAVINGS INSURANCE)	
COMPANY, an Indiana Corporation,)	
)	
Defendant.)	

MEMORANDUM OPINION

Before the Court is Defendant's Motion for Stay and to Approve Supersedeas Bond. Therein, Defendant notes its intent to appeal the Judgment entered against it in this matter. Attached to Defendant's motion was a copy of the supersedeas bond posted in this matter. Defendant also noted that Plaintiff had no objection to the form or amount of the bond. As the time to object has now passed with no response from Plaintiff, it is apparent that Plaintiff has no objection to entry of the stay.

Pursuant to Fed. R. Civ. P. 62(d), a party may obtain a stay *pending appeal* upon submission and court approval of a supersedeas bond. Rule 62 makes clear that the stay is effective upon approval of the bond by the court. Here, the bond appears proper in form and amount and in the absence of objection from Plaintiff it will be approved. However, Defendant was not entitled to a stay until such time as a Notice of Appeal was filed. Rule 62(d) is not effective until an appeal is filed. See Fed. R. Civ. P. 62(d) ("When an appeal is taken . . ."). Review of the Court's docket reveals that Defendant filed a Notice of Appeal on July 10, 2006. Thus, all prerequisites for entry of a stay pending appeal are now met.

As set forth more fully herein, Defendant's Motion for Stay and to Approve Supersedeas Bond (Dkt. No. 164) is GRANTED. Defendant's bond is approved and execution of judgment in favor of Plaintiff is stayed pending resolution of Defendant's appeal in this matter.

IT IS SO ORDERED this 13th day of July, 2006.



ROBIN J. CAUTHRON
United States District Judge